

DRAFT DIRECTIVE TRANSMITTAL
WORKFORCE SERVICES

Number: WSDD-53

Date: February 8, 2011

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT CONTRACTS WITH HIGHER EDUCATION OR ELIGIBLE TRAINING
PROVIDERS

☒ **IMMEDIATE ACTION**

Bring this draft to the attention of the appropriate staff.

☒ **E-MAIL COPY TRANSMITTED**

Number of pages (including coversheet): 5

If there are any problems with this transmittal, please call the Pagemaster at 916/654-8008.

SUBJECT MATTER HIGHLIGHTS:

PLEASE NOTE:

The purpose of this directive is to communicate policy guidance regarding Local Workforce Investment Boards contracting directly with institutions of higher education or eligible training providers.

COMMENTS ARE DUE BY:

2/22/11

Comments can be submitted through one of the following ways:

- 1) **Fax** — WSD, Attention: **Brett Braidman** at 916/654-9753
- 2) **E-Mail** — Brett.Braidman@edd.ca.gov (Include “draft comments” in the subject line)
- 3) **Mail** — WSD / P.O. Box 826880 / MIC 69 / Sacramento, CA 94280-0001

All comments received by the end of the comment period will be considered before the final directive is issued. The Workforce Services Branch does not respond individually to each comment received. However, a summary of comments will be released with the final directive. **Comments received after the specified due date will not be considered.**

If you have any questions, contact the Workforce Services Division at (916) 654-7799.

DIRECTIVE

WORKFORCE SERVICES

Number:

Date:

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TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: CONTRACTS WITH HIGHER EDUCATION OR ELIGIBLE TRAINING PROVIDERS

EXECUTIVE SUMMARY:

Purpose:

The purpose of this directive is to communicate policy guidance regarding Local Workforce Investment Boards (LWIB) contracting directly with institutions of higher education or eligible training providers.

Scope:

This directive applies to all California LWIBs.

Effective Date:

This directive is effective on the date of its issuance.

REFERENCES:

- Workforce Investment Act (WIA) Sections 122, 123, 129(c), and 134(d)(4)(D)
- American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5)
- Consolidated Appropriations Act, 2010, Division D (Public Law 111-117)
- Title 20 United States Code (USC) Section 1002
- One-Stop Comprehensive Financial Management Technical Assistance Guide
- Department of Labor (DOL) Training and Employment Guidance Letter (TEGL) 12-09, Joint Guidance for States Seeking to Implement Subsidized Work-Based Training Programs for Unemployed Workers (January 29, 2010)
- DOL TEGL 14-08, Guidance for Implementation of the WIA and Wagner-Peyser Act Funding in the ARRA and State Planning Requirements for Program Year (PY) 2009 (March 18, 2009)

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- DOL, Employment and Training Administration Website, Implementing WIA and Wagner-Peyser Funding under ARRA, www.doleta.gov/recovery/TEGL14-08_Change1_FAQs.cfm
- WIA Directive WIAD06-15, Subject: Eligible Training Provider List (ETPL) (February 7, 2007)
- WIA Directive WIAD04-4, Subject: Recovery of WIA Tuition and Training Refunds (August 18, 2004)
- WIA Directive WIAD00-2, Subject: Procurement (August 24, 2000)

STATE-IMPOSED REQUIREMENTS:

This document contains no State-imposed requirements.

FILING INSTRUCTIONS:

Retain this directive until further notice.

BACKGROUND:

In order to increase the availability of training to workforce investment system customers, the Consolidated Appropriations Act, 2010 provides LWIBs the flexibility to contract directly with institutions of higher education or eligible training providers under certain conditions. Specifically, the Consolidated Appropriations Act, 2010 states, "a local board may award a contract to an institution of higher education or other eligible training provider if the local board determines that it would facilitate the training of multiple individuals in high-demand occupations, if such contract does not limit customer choice."

The above-mentioned flexibility was also a provision of ARRA and is intended to increase education, training enrollments, and training capacity at a time when many states and educational institutions are experiencing budget shortfalls. Direct contracts with institutions of higher learning or eligible training providers allow LWIBs to quickly design training to fit the needs of both job seekers and employers.

POLICY AND PROCEDURES:

Definitions

The term "institution of higher education" means an educational institution that:

- Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate;
- Is legally authorized within such State to provide a program of education beyond secondary education;

- Provides an educational program for which the institution awards a bachelor's degree or provides not less than a two-year program that is acceptable for full credit toward such a degree;
- Is a public or other nonprofit institution; and
- Is accredited by a nationally recognized accrediting agency or association, or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.

The term also includes:

- A proprietary institution of higher education [as defined in subsection (b) of 20 USC 1002].
- A postsecondary vocational institution [as defined in subsection (c) of 20 USC 1002].

The term "eligible training providers" refers to training providers listed on the State's ETPL. (See WIA Directive [WIAD06-15](#), Eligible Training Provider List)

Contract Provisions

The LWIBs may use PY 2010-11 adult, dislocated worker, and youth formula funds to award contracts to institutions of higher education or eligible training providers, under the following conditions:

- The LWIB determines it would facilitate the training of multiple individuals in high-demand occupations, and
- The contracts do not limit customer choice

This flexibility applies to PY 2010-11 funds only, and is applicable throughout the life of the funds (i.e., July 1, 2010, through June 30, 2012). This flexibility does not apply to unspent PY 2009-10 funds.

The LWIBs must comply with applicable federal and State procurement regulations and policies prior to awarding contracts to institutions of higher education or eligible training providers (See WIA Directive [WIAD00-2](#), Procurement). Therefore, LWIBs must conduct procurements in a manner designed to provide full and open competition. Thus, if a LWIB determines a sole source procurement to be appropriate, they must meet the requirements of noncompetitive proposals as stated in the [One-Stop Comprehensive Financial Management Technical Assistance Guide](#), Chapter II-10, Procurement. Additionally, LWIBs must ensure contracts identify training providers as either vendors or subrecipients consistent with the guidance provided in the One-Stop Comprehensive Financial Management Technical Assistance Guide, Appendix E.

The LWIBs may pay for the full cost of training at the beginning of the course. However, LWIBs must ensure they have policies and procedures in place to recover unused WIA training monies and/or tuition refunds as required in WIA Directive [WIAD04-4](#), Recovery of WIA Tuition and Training Refunds. Additionally, any classroom training purchased with youth formula funds must meet the youth program design parameters established in WIA Section 129(c).

Institutions of higher education, such as community colleges, do not need to be on the State's ETPL in order to be awarded a contract. Other providers of training that are not institutions of higher education must be on the ETPL in order to be awarded a contract.

Training services include the full range of occupational skills training, adult education and literacy services, and customized training as described in WIA Section 134(d)(4)(D). Before entering into such contracts, LWIBs should assess current training offerings to ensure that the contracts are not duplicating existing training courses and curricula. These training contracts can be performance-based to ensure that they result in real outcomes for the students.

As part of the contract, the institution of higher education or eligible training provider could develop curriculum for emerging sectors and enhance the capacity of the institutions to ensure quality training within limited timeframes. As such, the development of curriculum by institutions of higher education can be considered a training activity under WIA, if it is developed in the context of providing training to WIA participants. Curriculum activities should focus on adapting existing or creating new curriculum that will result in a short-term increase in training capacity, rather than long-term curriculum development activities.

ACTION:

Please bring this directive to the attention of the LWIB and other relevant parties.

INQUIRIES:

If you have questions concerning this directive, contact your assigned [Regional Advisor](#).

/S/ MICHAEL EVASHENK, Chief
Workforce Services Division